

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

MARCO CONLEY,

Plaintiff,

vs.

Case No. 06-4017-SAC

BRUCE DICKSON IV, and FRANK PASE, as
an agent and employee of Topeka, Kansas and
as an individual, and THE CITY OF TOPEKA,
KANSAS.

Defendant.

MEMORANDUM AND ORDER

This case comes before the court on plaintiff's motion to reconsider the court's denial of plaintiff's motion for an evidentiary hearing on an attorney's fee issue. The court has reviewed the motion, and finds that plaintiff has neither met nor attempted to meet the requirements for motions to reconsider.

Plaintiff's motion is largely based upon speculations which would, in the ordinary course of events, be cleared up by communication with opposing counsel. The court finds no need to depart from its standard

procedure on attorney's fee issues, which is to receive all briefs, including affidavits from various counsel, then determine in its discretion whether an evidentiary hearing is necessary and in the interests of justice. The court does not recall ever conducting an evidentiary hearing when the amount of disputed fees is so small, and is not inclined to do so now since conducting an evidentiary hearing would likely incur more costs for both sides than are requested in the fee application.

Both parties indicate a lack of communication between counsel. Accordingly, the court orders plaintiff's counsel to confer with opposing counsel regarding the fee dispute prior to filing its response to the motion, and to file with its response a certification similar to that required by Fed. R. Civ. P. 26(c) and 37 and D. Kan. Rule 37.2 which describes with particularity the steps taken by all counsel to resolve the issues in dispute without court action. As noted in the Local Rule, merely mailing or faxing a letter to opposing counsel is insufficient, and the parties are required to "in good faith converse, confer, compare views, consult and deliberate, or in good faith attempt to do so."

IT IS THEREFORE ORDERED that plaintiff's motion to reconsider (Dk. 53) is denied, and the parties are ordered to confer in

accordance with the terms of this memorandum.

Dated this 9th day of May, 2007, Topeka, Kansas.

s/ Sam A. Crow _____
Sam A. Crow, U.S. District Senior Judge